In The

Supreme Court of the United States

OCTOBER TERM, 1961

AUG 19 1961

BROWNING, Clerk

No. 335

IOANNIS KOUFOPANTELIS, *et al.*,

v.

CIA. DE NAV. SAN GEORGE, S. A.,

Petitioner,

FANORIOS PANTELOGLOU,

v.

CIA. DE NAV. SAN GEORGE, S. A.,

Petitioner,

DIAMANTIS DRAKOPOULOS, *et al.*,

v.

CIA. DE NAV. SAN GEORGE, S. A.,

Petitioner,

SPIRIDON BARDIS,

v.

CIA. DE NAV. SAN GEORGE, S. A.,

Petitioner,

IOANNIS KOUFOPANTELIS, *et al.*,

v.

CIA. DE NAV. SAN GEORGE, S. A., SANTA MARIA SHIPOWNING & TRADING COMPANY, S. A., CIA. DE NAVEGACION SAN MARTINE, S. A., and PANATHENA TRADING & SHIPOWNING COMPANY,

Petitioners.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION AND APPENDIX

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August 18, 1961.

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION AND APPENDIX

Cia. de Nav. San George, S.A., a Panamanian corporation, Santa Maria Shipowning & Trading Company, S.A., a Panamanian corporation, Cia. de Navegacion San Martine,

S.A., a Panamanian corporation, and Panathena Trading & Shipowning Company, a Liberian corporation, pray that a writ of certiorari issue to review the judgments and orders of the United States Court of Appeals for the Second Circuit, entered in the above cases on May 26, 1961. A petition for rehearing was denied by the Court of Appeals by order dated June 19, 1961.

Opinions Below and Jurisdiction

The opinions of the United States District Court for the Southern District of New York have not yet been reported and are reproduced at pp. 1a and 5a of the Appendix. The opinion of the United States Court of Appeals for the Second Circuit dated May 26, 1961 has not yet been reported and is reproduced at pp. 9a-19a of the Appendix.

The jurisdiction of this Court is invoked under 28 U. S. C. 1254(1).

Statement

This petition relates to four libels instituted in December 1955 and October 1956 by former members of the crew of the S/S "Santa Despo," a Panamanian flag vessel owned by Petitioner Cia De Nav. San George, S.A. (hereinafter referred to as San George) until its sale in 1955. All four libels were predicated upon claims for allegedly unpaid wages, vacation pay, overtime, indemnities and discharge pay and, in each instance, additional claims were asserted for double-wages pursuant to Sections 596 and 597 of Title 46, U. S. C. (see Appendix, pp. 20a, 21a). Default decrees were entered against San George in the various libels on April 30, 1959 and June 17, 1959 in the District Court for the Southern District of New York.

Thereafter, on May 20, 1960, San George moved the District Court for orders (1) setting aside its defaults (2) setting aside the judgments entered in favor of libellants and against it, and (3) permitting it to make answer to the libels on such terms as the court might direct. The motions were denied by Cashin, J. on August 2, 1960 (see Appendix, page 5a) and appeals were taken to the Court of Appeals for the Second Circuit from the orders entered therein.

During the period intervening between the entry of the judgments against San George and the denial of the motions to set aside the defaults, the libellants in the Koufopantelis, et al. matter, as permitted both by Admiralty Rule 20 and Rule 69(a) of the Federal Rules of Civil Procedure (see Appendix pp. 24a, 25a) commenced a supplementary proceeding against petitioners Santa Maria Shipowning & Trading Company, S.A., Cia De Navigacion San Martine, S.A., Panathena Trading & Shipowning Company and Saint John Shipping & Trading Corporation in accordance with section 794 of the New York Civil Practice Act (see Appendix page 21a). Cargo & Tankship Management Corporation, the manager of the local finances of petitioners at that time, was also joined as a Third Party in said proceedings but is not a party to this petition. Similarly, inasmuch as the Third Party Saint John Shipping & Trading Corporation was found to have no liability in the proceedings below, it is not a party hereto. The theory upon which libellants based the supplementary proceedings was that funds belonging to San George had been distributed among the above-named shipping companies by Cargo & Tankship Management Corporation at the direction of an agent of San George. Extensive examination of these Third Parties was conducted in the course of which the complex bookkeeping system employed by Cargo & Tankship Man-